

REMARKS**Claim Rejections Under 35 U.S.C. § 103**

Claims 1, 2, 6 and 49-51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sugizaki in view of Yu (U.S. Patent No. 6,495,437). Claims 4 and 52-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sugizaki and Yu in view of Akatsu (U.S. Patent No. 5,717,635). Applicant respectfully traverses.

Claims 1, 2, 6 and 49-51

Applicant's claim 1 recites, in part, "wherein the oxidized Aluminum has a first concentration of excess Aluminum at a first oxide interface adjacent the substrate and a second concentration of excess Aluminum at a second oxide interface adjacent the control gate." Applicant notes that although Yu discloses the formation of an Aluminum oxide layer, Yu does not purport to halt the oxidation while both interfaces still have an excess of Aluminum. Because Applicant's claims recite that each oxide interface have a concentration of excess Aluminum, Applicant respectfully submits that the cited references, taken either alone or in combination, fail to teach or suggest at least these limitations of Applicant's claim 1. Specifically, because neither reference purports to discuss partial oxidation of the relevant layer, their combination cannot teach or suggest a layer of oxidized Aluminum having a concentration of excess Aluminum at both interfaces.

In view of the foregoing, Applicant respectfully submits that claim 1 is patentably distinct from the cited references, taken either alone or in combination. As claims 2, 6 and 49-51 include all patentable limitations of claim 1, these claims are also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a), and allowance of claims 1, 2, 6 and 49-51.

Claim 4

Applicant contends that it has shown claim 1 to be patentably distinct from the primary and secondary references of Sugizaki and Yu. Applicant further contends that the tertiary reference of Akatsu fails to overcome the deficiencies of the primary and secondary references.

In particular, as with Sugizaki and Yu, Akatsu does not purport to discuss partial oxidation of the relevant layer. Thus, the combination of Sugizaki, Yu and Akatsu cannot teach or suggest a layer of oxidized Aluminum having a concentration of excess Aluminum at both interfaces. Accordingly, Applicant respectfully submits that claim 1 is patentably distinct from Sugizaki, Yu and Akatsu, taken either alone or in combination. As claim 4 includes all patentable limitations of claim 1, this claim is also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claim 4.

Claims 52-55

Applicant contends that it has shown claim 1 to be patentably distinct from the cited references of Sugizaki, Yu and Akatsu, taken either alone or in combination. Applicant thus contends that claim 52 is allowable for the same reasoning as claim 52 also recites, in part, “wherein the oxidized Aluminum has a first concentration of excess Aluminum at a first oxide interface adjacent the substrate and a second concentration of excess Aluminum at a second oxide interface adjacent the control gate.” As noted with respect to claim 4, the combination of Sugizaki, Yu and Akatsu cannot teach or suggest a layer of oxidized Aluminum having a concentration of excess Aluminum at both interfaces.

In view of the foregoing, Applicant respectfully submits that claim 52 is patentably distinct from the cited references, taken either alone or in combination. As claims 53-55 include all patentable limitations of claim 52, these claims are also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a), and allowance of claims 52-55.

CONCLUSION

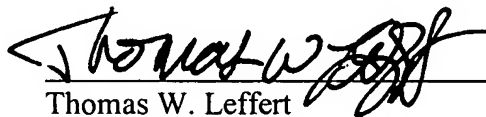
Claims 1, 2, 4, 6 and 49-55 are currently pending.

In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date: 13 FEB 07



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